

REMARKS

I. Introduction

The present response does not amend, add, or cancel any claims.

Accordingly, claims 1-5 and 7-12 remain pending in the application. Claim 1 is independent.

II. Office Action Summary

In the Office Action of October 16, 2009, claims 1 and 9 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Application 2006/0052702 to Matsumura et al ("Matsumura"). Claims 2-5, 7-8, and 10-12 were rejected under 35 U.S.C. §103(a) as being unpatentable over Matsumura in view of U.S. Patent 7,455,640 issued to Suzuki et al ("Suzuki"). These rejections are respectfully traversed.

III. Rejections under 35 USC §102

Claims 1 and 9 were rejected under 35 U.S.C. §102(b) as being anticipated by Matsumura. Regarding this rejection, the Office Action indicates that Matsumura discloses an ultrasonic imaging apparatus that includes an ultrasonic probe, an ultrasound imaging structure that generates an ultrasound image based on reflected echoes received by the ultrasonic probe, an elastic image structure that obtains a physical quantity of the elasticity of the object, and a display that overlays the ultrasound image to the color elastic image or arranges the ultrasound image and the color elastic image. An input is allegedly provided for variably setting a corresponding relationship between the hue of the color elastic image and a level of the physical quantity. The Office Action further indicates that the color elastic image

is generated in accordance with a set of physical quantities of the elasticity and a set of hue set by the input means so that at least one of the regions having a larger or smaller physical quantity of elasticity than the set physical quantity is displayed with the set hue. Applicants respectfully disagree.

As Applicants have previously argued, the features of the claimed invention are not believed to be disclosed or suggested by the art of record. However, Applicants respectfully submit that the references are improperly applied to reject the claims in that they do not qualify as prior art under the applicable statutes.

Regarding Matsumura, for example, 35 USC §102(b) requires, in part, a printed publication more than one year prior to the date of application for patent in the U.S.

Matsumura has a PCT publication date of May 13, 2004 and a U.S. publication date of March 9, 2006. In contrast, the present invention has a U.S. filing date of November 11, 2004, which is less than one year prior to publication of Matsumura.

Additionally, the present application claims the benefits of an earlier priority date of November 25, 2003. Consequently, this reference is inapplicable as prior art of rejecting claims 1 and 9 under the statute.

It is therefore respectfully submitted that claims 1 and 9 are allowable over the art of record.

IV. Rejections under 35 USC §103

Claims 2-5, 7, 8, and 10-12 were rejected under 35 USC §103(a) as being unpatentable over Matsumura in view of Suzuki. Regarding this rejection, the Office Action principally relies on Matsumura for disclosing all of the features recited in independent claim 1. Suzuki is relied upon for disclosing the remaining features that are recited in the claims.

As previously discussed, however, Matsumura appears to be improperly applied to reject the claims. Applicants further note, however, that the publication date of Suzuki is after the U.S. filing date of the present application. Consequently, these references cannot be combined to reject the claimed invention.

It is therefore respectfully submitted that claims 2-5, 7,8, and 10-12 are allowable over the art of record.

V. Conclusion


For the reasons stated above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a Notice of Allowance is believed in order, and courteously solicited.

If the Examiner believes that there are any matters which can be resolved by way of either a personal or telephone interview, the Examiner is invited to contact Applicants' undersigned attorney at the number indicated below.

AUTHORIZATION

Applicants request any shortage or excess in fees in connection with the filing of this paper, including extension of time fees, and for which no other form of payment is offered, be charged or credited to Deposit Account No. 01-2135 (Case: 389.46211X00).

Respectfully submitted,
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